

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,)
Plaintiff,)
NO. CR-09-2048-WFN-1
-vs-)
ORDER
BULMARO BARRAGAN-VALENCIA,)
Defendant.)

A motion hearing was held April 13, 2010. The Defendant, who is in custody, was present and represented by George Trejo, Jr. and assisted by Court-appointed interpreter Levi Enriquez; Assistant United States Attorney James Goeke represented the Government in place of Thomas Hanlon; United States Probation Officer Curtis Hare was also present.

This hearing was initially set as a sentencing hearing, but the Court heard arguments regarding Defendant's Motion to Withdraw Guilty Plea and Dismiss Indictment (Ct. Rec. 236). Defense counsel concurred with the Court that the request to dismiss the indictment is premature. The Government indicated that if Defendant is permitted to withdraw from his plea agreement that co-Defendant Jose Gonzalez-Ramirez will be re-indicted which may cause a conflict for Mr. Trejo. Mr. Trejo is cognizant of the issue and plans to withdraw if necessary.

The Court has reviewed the file and Motion and is fully informed. This Order is entered to memorialize and supplement the oral rulings of the Court. Accordingly,

IT IS ORDERED that:

1 1. Defendant's Motion to Withdraw Guilty Plea and Dismiss Indictment, filed
2 March 22, 2010 , **Ct. Rec. 236**, is **GRANTED IN PART and DENIED with the right to**
3 **renew in part.** Defendant is permitted to withdraw his guilty plea, but the Motion to
4 Dismiss Indictment is premature and so is **DENIED**.

5 2. For the purposes of calculation of speedy trial time, Defendant "shall be deemed
6 to be indicted" on the date that this Order becomes final. 18 U.S.C. § 3161(i).

7 3. A trial date shall be **SET for June 14, 2010, at 1:00 p.m., in Yakima,**
8 Washington.

9 4. A final pretrial conference and motion hearing shall be **SET for June 14, 2010,**
10 **at 11:00 a.m., in Yakima,** Washington.

11 5. Trial briefs, motions in limine, requested voir dire and a set of proposed **JOINT**
12 **JURY INSTRUCTIONS** shall be filed and served on or before **June 4, 2010**.

13 Jury instructions should only address issues that are unique to this case, and shall
14 include instructions regarding the elements of each claim, any necessary definitions and a
15 proposed verdict form.

16 The Joint Proposed Jury Instructions shall include:

17 (a) The instructions on which the parties agree; and

18 (b) Copies of instructions that are disputed (i.e., a copy of each party's proposed
19 version of an instruction upon which they do not agree). All jury instructions from the most
20 current edition of the Ninth Circuit Manual of Model Jury Instructions may be proposed by
21 number. The submission of the Joint Proposed Jury Instructions will satisfy the requirements
22 of LR 51.1(c).

23 Each party shall address any objections they have to instructions proposed by any
24 other party in a memorandum. The parties shall identify the specific portion of any proposed
25 instruction to which they object and shall elaborate the basis for the objection. Objections
26 asserting that an instruction sets forth an incorrect statement of law shall describe the legal

authority that supports this objection. Failure to file an objection and supporting argument may be construed as consent to the adoption of an instruction proposed by another party.

6. The parties are requested to submit courtesy copies of witness and exhibit lists to the Court no later than **12:00 noon the Thursday before trial**.

7. An additional pretrial conference and motion hearing shall be held **June 1, 2010, at 11:30 a.m., in Yakima, Washington.** Counsel: Please note the change in time.

(a) All additional motions shall be filed and served no later than **May 14, 2010**.

(b) Responses shall be filed and served no later than **May 21, 2010**.

The District Court Executive is directed to file this Order and provide copies to counsel.

DATED this 14th day of April, 2010.

s/ Wm. Fremming Nielsen

WM. FREMMING NIELSEN

SENIOR UNITED STATES DISTRICT JUDGE

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